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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/690,007	10/17/2000	Harry W. Morris	06975-058001 / Ad Serving	1832
26171	7590	08/09/2006	EXAMINER DIVECHA, KAMAL B	
FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			ART UNIT 2151	PAPER NUMBER

DATE MAILED: 08/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/690,007

Applicant(s)

MORRIS ET AL.

Examiner

KAMAL B. DIVECHA

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 31 July 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: none.
Claim(s) objected to: none.
Claim(s) rejected: 1-28, 55-57 and 64-74.
Claim(s) withdrawn from consideration: 29-54 and 58-63.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
Please see the attached document.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s).
13. ☐ Other: _____.


WILLIAM VAUGHN
SUPERVISORY PATENT EXAMINER
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Response to Arguments

Claims 1-28, 55-57 and 64-74 are pending in this application.

Applicant's arguments filed July 31, 2006 have been fully considered but they are not persuasive.

In response filed, applicant argues in substance that:

a. Moraes fails to describe or suggest determining an amount of time to be used in later displaying advertisements on a viewers associated computer system based on monitoring the viewers interactions with the computer system, and based on the determined amount of time, varying an amount of display time for which an advertisement is to be displayed on the viewers system (remarks, page 2-3).

In response to argument [a], Examiner disagrees for the at least following reason:

Blumenau disclosed, "monitoring information can be used to affect the display of in which the set of content is displayed, to be modified based upon review and analysis of monitoring information obtained from previous displays of the set of content (e.g., monitoring information regarding whether or not the content was hidden, or the frequency of display of the content at different times during the day or week, that may be used to determine the best location on a display screen or the best times, respectively, to display the content" (column 18 lines 38-49) and "the duration of time that a set of content has been displayed can be determined, as discussed above, and the portion of the set of content that is being displayed changed as a function of that duration, e.g., the display of a set of content can begin with a particular video display and change to another video display after passage of a specified duration of time" (column 19 lines 2-11).

Furthermore, Guyot et al. disclosed, "the client application monitors the keyboard and mouse activity on the subscriber's computer to determine when the subscriber is most likely to be watching the computer screen. The client application then uses this information to schedule the display of advertisements on the subscriber's computer" (column 2 lines 8-13). Guyot further disclosed other information such as Ad Play Times Maximum Number, Ad Frequency, Daily Ad Playing Counter, Ad Hour/DayAeek/Month, Frames, etc. that could be adjusted for displaying advertisements based on user's interactions and other parameters. Thus, it is submitted that Guyot disclosed adjusting a timing of later displayed advertisements on the viewer's associated computer system based on parameters derived from user's interactions (determined amount of time) and Blumenau is relied upon for the determined amount of time limitation.

Moraes, from the same field of endeavor explicitly discloses the process of monitoring the users interaction with the computer system and gathering the statistical data such as when there is a period of inactivity, any communication problems, which advertisements are shown, for how long and at what times, etc. Moreas further teaches the process wherein new banner and showcase advertisements and corresponding scheduling information can be received by the client computer from the mail server. Expired advertisements may be overwritten (col. 19 L9-49, i.e. varying the amount of time for which an advertisement is displayed) and as per applicant specification, adjusting the timing may include adjusting an ad expiration tuning parameter (see applicant summary, page 7 lines 18-23).

Therefore, the combination Blumenau, Guyot and Moraes does indeed teach and disclose the process of determining an amount of time to be used in later displaying advertisements on a viewers associated computer system based on monitoring the viewers interactions with the

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computer system, and based on the determined amount of time, varying an amount of display time for which an advertisement is to be displayed on the viewers system.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAMAL B. DIVECHA whose telephone number is 571-272-5863. The examiner can normally be reached on Increased Flex Work Schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on 571-272-3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Kamal Divecha
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August 3, 2006.



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